

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

RSA No.2888 of 2015

Date of Decision.17.11.2016

Gurdev Singh

.....Appellant

Vs

Kulwant Kaur and others

.....Respondents

Present: Mr. Dinesh Nagar, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The appellant-plaintiff is aggrieved of the dismissal of the suit
seeking the following relief:

“Suit for declaration to the effect that the plaintiffs are in possession of the land measuring 48K-0M bearing khewat No.324/373, khasra No.37/19,20, 21 and khewat No.325/376, khasra No.36/3, 4, 25 as entered in the jamabandi for the year 2007-08, situated in the village Khoja, Tehsil Nawanshahr, District SBS Nagar and the name of the defendant reflected in column No.5 is wrong, illegal and liable to be corrected on the name of the plaintiff on the basis of the transfer agreement dated 31.05.2000.

with

Consequential relief of permanent injunction to restraining the defendant by granting ad interim injunction restraining the respondent from interfering in the peaceful, lawful, continuous, uninterrupted possession of the applicant/plaintiff over the suit property fully detailed in the head note of the plaint.”

The pith and substance of the suit aforementioned read in
conjunction with the pleadings seeking declaration having obtained the
possession on the basis of long, uninterrupted and settled possession of suit

land with a consequential relief of injunction.

Mr. Dinesh Nagar, learned counsel for the appellant submits that in view of the transfer deed having been executed by defendant No.3 to 5, the appellant was put into possession and the Courts below have dismissed the suit on the ground that in the column of ownership, Forest Department is reflected as owner and in the absence of the aforementioned Department, the suit was not maintainable.

He further submits that the suit was in consonance with the provisions of Section 45 of the Punjab Land Revenue Act viz-a-viz the correction of the entry qua possession. This aspect has totally been ignored, thus, there is gross illegality and perversity.

I have heard learned counsel for the appellant, appraised the paper book and of the view that there is no force and merit in the aforementioned submission as the appellant under the garb of the transfer deed and correction of the entries, is seeking the declaration of having become owner, owing to the long and settled possession which is not permissible, as the said plea can be taken in defence and not in affirmative, in view of the law laid down by this Court in **Bhim Singh and others Vs. Zile Singh and others 2006(3) RCR Civil 97.**

For the reasons aforementioned, I do not intend to differ with the judgment and decree passed by the Courts below as the same are based upon the correct appreciation of fact and law, much less, no substantial question of law arises for consideration. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 17, 2016
Pankaj*